

By Senator Brandes

22-00536A-15

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1 A bill to be entitled
2 An act relating to regulatory minimum prices; creating
3 s. 501.002, F.S.; providing legislative intent;
4 defining the term "regulatory minimum price";
5 providing that the establishment of regulatory minimum
6 prices for lawful goods or services, or the creation
7 of service classifications that would apply
8 differently to certain individuals and businesses, is
9 an unfair or deceptive regulatory act under the
10 Florida Deceptive and Unfair Trade Practices Act;
11 requiring the Department of Agriculture and Consumer
12 Services to identify instances of regulatory minimum
13 prices and notify the agency or entity that is
14 noncompliant; clarifying that this act does not apply
15 to minimum wages and regulatory fees of a governmental
16 entity; providing relief for persons who are adversely
17 affected by certain regulatory actions; requiring
18 courts to award reasonable attorney fees, costs, and
19 damages; providing a limitation on damages; requiring
20 interest on the sums awarded to accrue at the legal
21 rate from the date of filing; providing an effective
22 date.

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24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Section 501.002, Florida Statutes, is created to
27 read:

28 501.002 Florida Free Enterprise Act.-

29 (1) INTENT.-It is the intent of the Legislature that the

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30 ability of the public to freely bargain for lawful goods and
31 services not be restricted by governmental actions that
32 establish regulatory minimum prices.

33 (2) DEFINITION.—As used in this section, the term
34 “regulatory minimum price” means any value, percentage of a
35 value, or rate of compensation established by an ordinance,
36 special act, rule, or other governmental action below which a
37 lawful business or private individual is prohibited from
38 charging for lawful goods or services.

39 (3) UNFAIR OR DECEPTIVE ACT.—

40 (a) It is an unfair or deceptive regulatory act or
41 practice, actionable under the Florida Deceptive and Unfair
42 Trade Practices Act, for any state agency, county government,
43 municipal governing body, other governmental entity, or special
44 district, whether dependent or independent, as defined in s.
45 189.012, or any agency or subsidiary derived thereof, to:

46 1. Restrict the right of the public to freely bargain for
47 lawful goods or services by establishing regulatory minimum
48 prices for lawful goods or services; or

49 2. Create classifications within a type of service which
50 would apply differently to individuals and businesses who
51 compete or attempt to compete with each other to provide similar
52 services.

53 (b) The Department of Agriculture and Consumer Services
54 shall identify any instance of regulatory minimum prices
55 established by a state agency or governmental entity and notify
56 that agency or entity that the regulatory minimum price is
57 noncompliant with this section.

58 (4) EXEMPTION.—This section does not apply to:

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59 (a) Minimum wages established by a governmental entity.

60 (b) Any permit fee, license fee, application fee, or fee
61 assessed in a regulatory fashion, such as an impact fee,
62 authorized under law.

63 (5) RELIEF.—A person who is adversely affected by any
64 regulatory action adopted or caused to be enforced that is in
65 violation of this section may file suit against such state
66 agency, county government, municipal governing body, other
67 governmental entity, or special district, whether dependent or
68 independent, as defined in s. 189.012, or any agency or
69 subsidiary derived thereof, in any court of this state for
70 declaratory or injunctive relief and for actual damages, as
71 limited herein, caused by the regulatory action. A court shall
72 award the prevailing plaintiff in any such suit:

73 (a) Reasonable attorney fees and costs in accordance with
74 the laws of this state, including a contingency fee multiplier,
75 as authorized by law; and

76 (b) Actual damages incurred, up to \$1 million.

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78 Interest on the sums awarded pursuant to this subsection shall
79 accrue at the legal rate from the date on which suit was filed.

80 Section 2. This act shall take effect July 1, 2015.